

REMARKS

This Amendment is submitted in reply to the non-final Office Action mailed on July 7, 2006. No fee is due in connection with this Amendment. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112701-427 on the account statement.

Claims 1-28 are pending in this application. In the Office Action, Claims 2-10 are objected to, Claims 8-10 are rejected under 35 U.S.C. §101 and Claims 1-10 are rejected under 35 U.S.C. §102. In response Claims 1, 10, 18, 23 and 28 have been amended and Claims 8-9 have been canceled. This amendment does not add new matter. In view of the amendment and/or for the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

As discussed with the Examiner, Applicants previously submitted a preliminary amendment amending Claims 1-10 and adding Claims 11-28. In accordance with the preliminary amendment, Claims 1-28 are currently pending. Claims 1, 10, 18, 23 and 28 have been amended to correct informalities and for clarification purposes. The amendments are supported in the specification, for example, at page 8, lines 22-25, of the preliminary amendment.

In the Office Action, Claims 2-10 are objected to and Claims 8-10 are rejected under 35 U.S.C. §101. In response Applicants respectfully submit that Claims 2-10 were previously amended in the preliminary specification as discussed above. Accordingly, Applicants respectfully request that the objection to Claims 2-10 and the rejection of Claims 8-10 under 35 U.S.C. §101 be withdrawn.

In the Office Action, Claims 1-10 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,024,996 to Ringe ("*Ringe*"). Applicants believe this rejection is improper and respectfully traverse it for at least the reasons set forth below.

Applicants respectfully submit that *Ringe* fails to disclose or suggest every element of the present claims. For example, *Ringe* fails to disclose or suggest a food product comprising in percent by weight of dry matter, 0.5 to about 5% of a viscous soluble fibre, 2 to about 20% oat bran concentrate, and 10 to about 30% cereal bran as required, in part, by independent Claims 1, 18 and 23. *Ringe* also fails to disclose or suggest using 1 to about 4%, in percent by weight of

dry matter, of a viscous soluble fibre, 4 to about 16% oat bran concentrate, and 10 to about 30% oat bran in the preparation of the food product as required, in part, by independent Claims 10 and 13. The Patent Office admits same. See, Office Action, page 3.

Applicants also respectfully submit that the skilled artisan would have no reasonable expectation of success using *Ringe* in arriving at the present claims. For example, Applicants have surprisingly found that when a food product containing oat bran concentrate, a cereal bran and a viscous soluble fibre in the claimed quantities is mixed with water at body temperature, the viscosity obtained is much higher than when one or two of the constituents are used on their own. This effect is demonstrated and discussed in the present specification.

The health benefits of fibre in general and soluble fibre in particular are known. One specific benefit of the consumption of viscous soluble fibre is its ability to modulate post-prandial glycaemic peaks. This benefit is linked to the ability of the viscous soluble fibre to "lock up" glucose released by digestion of carbohydrates so as to reduce the rate of absorption of the glucose from the intestinal tract into the blood. For healthy individuals, this means that consumption of carbohydrates together with viscous soluble fibre results in a prolonged feeling of satiety. For individuals suffering from Type II diabetes, it offers a chance to control hyperglycaemic episodes.

As discussed in the present specification, it is difficult to produce food products with a high content of soluble fibre at all (i.e. no end product possible) and with the required degree of palatability. The claimed combination of ingredients in accordance with embodiments of the present invention, for example, produces a synergistic increase in viscosity of the ingested food product. An advantage of this is that the high viscosity is achieved without adding high amounts of cold soluble, high-viscosity fibre, which is often difficult to isolate. This enables the quantity of viscous soluble fibre in the food product to be reduced and provides food products that are palatable and efficacious in terms of generating a highly viscous mixture when ingested.

In contrast, *Ringe* fails to teach or even recognize the physiological significances of the viscosity of the ingested product. Consequently, Applicants respectfully submit that the skilled artisan wishing to reduce the soluble fibre content of a food product to improve its palatability while at the same time still obtaining the beneficial physiological effects of soluble fibre linked to its viscosity generating properties would find no motivation or guidance to do so in *Ringe*.

For at least the reasons discussed above, *Ringe* does not teach, suggest, or even disclose all of the elements of the present claims, and thus, fails to render the claimed subject matter obvious.

Accordingly, Applicants respectfully request that the obviousness rejection with respect to the present claims be reconsidered and the rejection be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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